

In the Drawings

The attached sheet of drawings includes a change to Figure 11. This sheet replaces the original sheet including Figure 11. In Figure 11, element 6 has been changed to element 61, as suggested by the Examiner. A replacement sheet and an annotated sheet showing changes are enclosed also.

REMARKS

In the Office Action, the Examiner indicated that claims 1 through 1-18 are pending in the application and the Examiner allowed claims 7-11, objected to claims 5 and 18, and rejected claims 1-4, 6, and 12-17.

The Objection to the Drawings

On page 2 of the Office Action, the Examiner objected to Figure 1, asserting that reference to character 13 is not included in the description, and to Figure 12, asserting that element 6 should be renumbered as element 61.

With respect to reference character 13 of Figure 1, the Examiner is directed to page 10, line 14; page 11, lines 3 and 33; and various other locations where character 13 is referenced. Applicant submits herewith an amendment to page 5 whereby reference to character 13 is added to the initial description of Figure 1.

With respect to the objection to Figure 12, applicant believes the Examiner meant to reference Figure 11 rather than Figure 12, and has amended Figure 11 to renumber element 6 as element 61.

Claim Objections

On page 2 of the Office Action, the Examiner objected to claim 7 for informalities regarding claim language. Applicant has amended claim 7 to correct these informalities and believes claim 7 is now in condition for allowance.

On page 15 of the Office Action, the Examiner objected to claims 5 and 18 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for the indication of allowability. In view of the amendments and arguments submitted herein, applicant chooses not to rewrite the claims as suggested by the Examiner at this time.

Claim Rejections, 35 U.S.C. §102

On page 3 of the Office Action, the Examiner rejected claims 15-17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,275,141 to Walter ("Walter").

Rejection of Claims under 35 U.S.C. §103(a)

On page 5 of the Office Action, the Examiner rejected claims 1-4 and 6 under 35 U.S.C. §103(a) as being unpatentable over Walter in view of U.S. Patent No. 6,731,196 to Ruediger. On page 11 of the Office Action, the Examiner rejected claims 12-14 under 35 U.S.C. §103(a) as being unpatentable over Walter in view of U.S. Patent No. 6,034,617 to Luebke et al.

The Present Invention

The present invention is a security system that includes a mechanical key for mechanically opening and closing a lock, as well as means for electronically opening and closing the lock. A portable device has a wireless communication function and includes a key retainer for retaining the mechanical key. The mechanical key of the present invention can be an emergency key used in an emergency state, such as when the battery of the portable device is depleted. As shown in, for example, Figures 2, 3, and 7, when not in use the mechanical key is hidden within the portable device. Thus, a person carrying the portable device cannot easily recognize at a glance whether or not the mechanical key is retained in the portable device. In accordance with the present invention, the portable device is configured with means for sensing the presence, or lack thereof, of the mechanical key within the portable device, and means for notifying a possessor of the portable device as to the inserted or non-inserted status of the mechanical key within the key retainer.

U.S. Patent No. 6,275,141 to Walter

U.S. Patent No. 6,275,141 to Walter ("Walter") teaches a system for restricting access to certain components of a vehicle. The system includes a remote control and a mechanism for causing the remote control to generate signals sent to a processor. The mechanism can include a connector, removably connected to the remote control. The remote control can generate an appropriate signal when the connector is removed and when it is reconnected. A mechanical key

108 is connectable to a remote control 102. The mechanical key 108 is not hidden from view when a connector 104 is retained in a receptacle 136 that links the mechanical key 108 and the remote control 102 to each other. Thus, it is apparent to a user of the device when the mechanical key 108 is disconnected from the remote control 102.

U.S. Patent No. 6,731,196 to Ruediger

U.S. Patent No. 6,731,196 to Ruediger (“Ruediger”) teaches a vehicle safety device that includes a vehicle-mounted transceiver for transmitting an inquiry or “challenge” code to an operator-carried transponder which processes the challenge code according to a secret algorithm, and transmits a response code to the vehicle. There is no disclosure in Ruediger of a mechanical key, nor of a key retainer for retaining the mechanical key.

U.S. Patent No. 6,034,617 to Luebke

U.S. Patent No. 6,034,617 to Luebke (“Luebke”) teaches an operator intent-based passive keyless vehicle control system which is employed to gain entry to a vehicle. A remote control, carried by a driver, periodically transmits a command signal whenever the remote control is moving. Luebke has no disclosure of a mechanical key nor of a key retainer for retaining a mechanical key.

The Cited Prior Art Does Not Anticipate the Claimed Invention

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."
MPEP §2131 citing *Verdegaal Bros. v. Union Oil Company of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987)

The Examiner Has Not Established a *prima facie* Case of Anticipation

As noted above, the present claimed invention includes a receptacle which hides from view a mechanical key that is used as a back-up when a portable remote keylock device is non-functional. Each of the independent claims of the present invention have been amended to include recitation of a key retainer that retains a mechanical key in such a manner that it is hidden within a portable device (see, for example, claim 1: "a portable device having a wireless communication function and including a key retainer for retaining the mechanical key, wherein when the key retainer retains the mechanical key, the mechanical key is hidden in the portable device", as amended). As noted above, the mechanical key of the present invention is an emergency key used in an emergency situation, such as when the battery of a portable remote key device is depleted. In its normal state the mechanical key is hidden in the portable device. Thus, a person carrying the portable device cannot easily recognize at a glance whether the mechanical key is retained in the portable device or not. Without benefit of the present invention, this inability to assess whether or not the mechanical key is present leads to a situation where a carrier of the portable

device may be without the ability to use the mechanical key, since it may not have been reinserted within the portable device. The present invention overcomes this problem by alerting a user to the absence of the key and/or preventing operation of certain elements of, for example, a vehicle, when the mechanical key is not present within the portable device. Walter does not teach or suggest the claimed structure of the present invention, nor does Walter contemplate the problem solved by the present invention. In the invention of Walter, the mechanical key 108 is not hidden, and is thus always visible to the user, and when it is not connected to the remote control 102, its absence is easily recognized by the possessor of the remote control 102. Since a person carrying the remote control 102 can easily recognize at a glance whether or not the mechanical key is retained in the portable device, it is unnecessary for the security system of Walter to notify the person carrying the remote control 102 of a situation in which the mechanical key 108 is not retained in the remote control 102.

Since each of the independent claims, and thus all of the dependent claims, of the present invention specifically claim the hiding of the mechanical key within the key retainer, and since Walter is devoid of any such teaching, applicant submits that the present claimed invention patentably defines over Walter. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 15-17 under 35 U.S.C. §102 based on Walter.

The Examiner has not Established a *prima facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143

Neither Ruediger nor Luebke disclose a teaching or suggestion of a mechanical key; further, neither teach nor suggest a key retainer for retaining a mechanical key. Since each of the independent claims, as noted above, specifically recites these elements, and since neither Ruediger nor Luebke provide a teaching or suggestion of such elements, it is submitted that the combinations proposed by the Examiner in rejecting the claims under 35 U.S.C. §103 are inappropriate. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-4, and 6 based on Walter and Ruediger, and claims 12-14 based on Walter and Luebke.

By not addressing the assertions of the Examiner regarding any teachings or suggestions provided by Ruediger or Luebke, applicant is not agreeing with the Examiner's assertions. Rather, since the claims do not teach or suggest the claimed elements as noted above, the Examiner's assertions with respect to Ruediger and Luebke are considered moot and need not be addressed at this time.

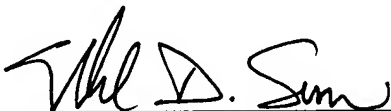
Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted

August 4, 2005
Date



Mark D. Simpson, Esquire
Registration No. 32,942

SYNNESTVEDT & LECHNER LLP
2600 ARAMARK Tower
1101 Market Street
Philadelphia, PA 19107

Telephone: (215) 923-4466
Facsimile: (215) 923-2189



Fig. 11

